falling together." Decision at page 7, lines 1-3. Because the pending rejection was raised for the first time in the Board's decision, however, applicants could not have so grouped the claims with respect to the rejection in question. Concurrently with this paper, therefore, applications have filed a request for the Board's clarification on this point.

Claim 1 has been amended, and claims 1, 2, 4-7, 9-13 and 16-18 are pending. In compliance with 37 C.F.R. § 1.121(c), applicants enclose marked up versions of the amended claims, showing all of the relative changes.

I. REJECTIONS UNDER 35 U.S.C. § 102(b)

The Board's decision enunciates grounds for rejecting claim 1 that resolve to an alleged anticipation by Chatenoud *et al.* (1994). Without acquiescing to the rationale underlying the new grounds, applicants submit that the present revision of claim 1 vitiates that rationale and, hence, vindicates the allowability of the amended claim over the Chatenoud reference.

While applicants disagree with the Board's characterization of Chatenoud's disclosure, they point out that the teachings of the reference are limited to administering anti-CD3 antibodies or antibody fragments to mice. Because claim 1, as presented, is directed to the treatment of humans, the Chatenoud reference cannot be novelty-defeating. A publication does not anticipation unless it teaches each element of the claimed invention. *See, e.g., Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991); *Hybritech, Inc. v. Monclonal Antibodies, Inc.*, 231 USPQ 81, 90 (Fed. Cir. 1986).

Therefore, applicants request a withdrawal of the rejection underscored by the Board's new grounds. A favorable disposition of the application also is solicited. The Examiner is invited to contact the undersigned, should there are any questions or issues that warrant further discussion.

Respectfully submitted,

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Marked-up Version of Claims

1. (Amended) A method of treating spontaneous and ongoing auto-immune diseases in **[mammals]** **humans**, comprising administering to a **[mammal]** **human**, in need of such a treatment, a therapeutically effective amount of one or more non mitogenic anti-CD3 active compounds to achieve permanent disease remission through the induction of antigen-specific unresponsiveness, i.e. immune tolerance.